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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 20 October 2003 from the Permanent Mission of Guinea to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Guinea to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to transmit to him herewith the report of the Republic of Guinea submitted pursuant to paragraph 6 of resolution 1455 (2003) of 17 January 2003 (see annex).

The Permanent Mission of the Republic of Guinea to the United Nations apologizes for the late submission of this report.

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Annex to the note verbale dated 20 October 2003 from the Permanent Mission of Guinea to the United Nations addressed to the Chairman of the Committee

Introduction

I. Please provide a description of activities, if any, by Usama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

1. As yet, there have been no activities by Usama bin Laden, Al-Qaida, the Taliban and their associates in the Republic of Guinea.

However, the threats that such individuals might pose to the country should not be overlooked. Because of its very aim and the cruelty of its followers, terrorism cannot be the province of any one country or region. All countries are involved, though certainly to different degrees, but the threat is general. Accordingly, the Republic of Guinea endorses the fight against terrorism. It is participating in all phases of that fight, inter alia by acceding to and implementing the international legal instruments on terrorism.

The Republic of Guinea, in its relations with its partners, affirms that it is opposed to any attempt to destabilize or to commit terrorist acts against anyone, by anyone and in any manner.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The list which the Committee drew up and transmitted to the Guinean authorities has not been incorporated into Guinea's legal system. It is viewed as being intended to provide the authorities with information, which could be used later. Although clearly important, the list is not a legal instrument subject to constitutional proceedings by States.

However, in order to ensure that the provisions of resolutions 1267 (1999) and 1455 (2003) are implemented, the comprehensive list drawn up by the Committee has been transmitted to all administrative structures involved in the fight against terrorism. It has also been sent to the Republic of Guinea's diplomatic and consular missions in case any individual named on the list should apply for a visa.

The following Ministries have been informed: Ministry of Foreign Affairs and Cooperation; the Ministry of Security; the Ministry of Territorial Administration and Decentralization; the Ministry of Defence; the Ministry of Justice; the central bank; the Ministry of Economic Affairs and Finance.

Each of these entities works, within its own sphere of competence, to implement the various resolutions and legal instruments concerning the fight against terrorism. They cooperate very closely so as to work more effectively. Any

information coming from these structures concerning the implementation of these texts is transmitted to the focal point for the fight against terrorism in the Ministry of Foreign Affairs and Cooperation.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

Since this list and additional lists were transmitted to the competent structures, there have been no difficulties at any level, either with regard to the presentation of the names or the execution of the relevant instructions.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

No designated individual or entity has been identified, either by the authorities within the country or by the diplomatic and consular services.

Guinea has made every arrangement to ensure that the Committee is notified should any designated individual or entity be found to be in Guinea.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

No structure involved in the fight against terrorism has reported the presence or come across the name of any individual or entity associated with Usama bin Laden or members of the Taliban or Al-Qaida in Guinea.

Currently Guinea does not have any name to submit to the Committee for inclusion in that list or any addenda thereto.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No lawsuit or legal proceedings have as yet been instituted against the Guinean authorities because of the inclusion of a name in the list.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

The list does not contain the name of any Guinean or foreign national resident in Guinea.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

Under Guinean legislation there are no specific legislative measures to prevent entities or individuals from recruiting or supporting Al-Qaida members in carrying

out activities inside Guinea and to prevent individuals from participating in Al-Qaida training camps in Guinea or elsewhere.

However, there are general provisions of the Penal Code that prohibit such practices under the heading criminals "associations" in articles 269 et seq.

Articles 51, 53, 54 and 57 of the Penal Code characterize terrorist acts and complicity in the commission of such acts as offences and provide for their punishment, while articles 505 and 506 of the same Code characterize the provision of arms to terrorists as an offence and provide for punishment of that offence.

The provisions of these articles have been given in the various reports Guinea has submitted pursuant to Security Council resolution 1373 (2001). However, just in case, some of them are given here.

Article 505 of the Penal Code:

> "The following offences are acts of terrorism when they are connected to an individual or collective enterprise having the purpose of disturbing public order by intimidation or terror:
>
> 1. Wilful infringements on life, wilful infringements on the physical integrity of the person, abduction and unlawful detention as well as the hijacking of aircraft, ships or any other means of transport;
>
> 2. Larceny, extortion, property destruction, defacement or deterioration as well as offences with respect to computerized data;
>
> 3. The manufacture, possession and use of lethal or explosive machines or devices;
>
> 4. The production, sale, importation or exportation of explosive substances;
>
> 5. The acquisition, possession, transport or illegal carrying of explosive substances or devices manufactured with the assistance of such substances;
>
> 6. The possession, carrying or transport of weapons and munitions of the first and fourth categories, as defined in article 2 of Act L/96/008 of 22 July 1996."

Article 506: "The introduction into the atmosphere, onto the ground or into water, including the water of Guinea's territorial sea, of a substance likely to endanger the health of humans or animals or the natural environment, is also an act of terrorism when it is connected to an individual or collective enterprise having the purpose of seriously disrupting public order by intimidation or terror."

Article 507 of the Penal Code provides for the punishment of terrorist acts as follows: "Any terrorist act shall be punished by a sentence of 10 to 20 years' imprisonment. Should such an act result in the death of one or more persons, the person or persons responsible shall be sentenced to the death penalty. Attempting to commit the crime set forth in this article shall be punished in the same way as the crime itself."

Complicity in the offence is characterized and punished as follows:

An accessory is defined as:

Paragraph 2: "Any person who by donations, promises, abuse of authority and power, intrigues or plots, incites a terrorist act or gives instructions for it to be committed";

Paragraph 3: "Any person who obtains weapons, instruments or any other means that are used for the act, knowing that they are to be used for it";

Paragraph 4: "Any person who, with full knowledge, helps or assists the main perpetrator or the perpetrators of the act directly, in preparing, facilitating or carrying it out, without prejudice to the penalties established in special texts";

Paragraph 5: "Any person who, aware of the criminal conduct of those who carry out attacks or acts of violence against State security, the public order, individuals or property, provides them with accommodation, a meeting place or a place to hide".

The provisions of the various articles and others not cited in this report demonstrate clearly what the position of Guinean law is towards perpetrators of criminal acts.

This shows clearly that Guinean authorities reject categorically any form of cooperation with terrorists.

III. Financial and economic assets freeze

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

The Republic of Guinea has no specific law relating to the freezing of assets.

As indicated in the initial report submitted to the Counter-Terrorism Committee pursuant to resolution 1373 (2001), in general, the monitoring mechanism in the Guinean financial system is based on respect for the principles of the Basel Committee on Banking Supervision. The report also indicated that the Central Bank of the Republic of Guinea was considering including in its bank monitoring mechanism the systematic control of private financial flows into the Republic of Guinea and of the portfolios of loans granted by the banks to certain entities. In that connection the Counter-Terrorism Committee had been asked for assistance in the detection of more sophisticated channels and mechanisms for money-laundering and the identification of groups and entities deemed to be sensitive.

It would also be desirable to receive assistance from the Committee established pursuant to resolution 1267 (1999), if possible for the drafting of specific legislation on the freezing of assets linked to terrorism.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-

related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

There are no structures or mechanisms in place to identify such financial networks. However, they could be established with the assistance requested in the preceding paragraph and in the reports submitted pursuant to resolution 1373 (2001).

Meanwhile international cooperation is based on the means of action of the Financial Action Task Force on Money Laundering.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements.[2] Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

In the absence of appropriate mechanisms and structures, Guinean banks are unable to identify assets attributable to Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals, unless information is provided by external sources.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

Since there has been no identification, no assets have been frozen.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Guinean banks have not released any funds pursuant to that resolution, nor do they have any funds belonging to such individuals or entities.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description

of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

It is worth recalling that there are no specific laws in Guinea dealing with such individuals and entities. However, the general laws and rules enacted apply to all situations that arise. The legislators have not deemed it necessary to draft ad hoc legislation pertaining to Usama bin Laden, Al-Qaida, the Taliban or their associates.

As for transfers of funds, these must be in line with the strict rules that are in effect.

- To inform banks and other financial institutions of the restrictions placed upon such individuals and entities, the Ministry of Foreign Affairs has sent administrative correspondence enclosing the list in question.
- Restrictions or regulations, if any, applicable to movements of precious goods (gold, diamonds and other articles of that kind) are in line with the Kimberly process to which Guinea is subject.

IV. Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Republic of Guinea complies with Security Council resolutions 1455 (2003) and 1390 (2002) and all the provisions concerning the sanctions regime.

Accordingly, it applies mutatis mutandis the rules set forth in those resolutions, without having to introduce special legislation. However, no individual named on the list has travelled to Guinea.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The list of individuals has been transmitted to the various border checkpoints. These individuals are not on the national "stop list". Currently, no problem has been encountered in the implementation of these resolutions.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The updated list is transmitted to the border checkpoints from time to time. Guinea does not yet have the capability to search List data using electronic means at all entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No listed individual has come to any authority, border checkpoint or Guinean consulate seeking to enter or transit through Guinea. Thus there have been no arrests.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

No visa office has identified any visa applicant whose name is on the list.

V. Arms embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

In the replies to the preceding questions, it has been stated that Guinea has no special legislation relating to Usama bin Laden, Al-Qaida, the Taliban or their associates. There are laws and rules that have a general application.

Act. No. L/96/008 of 22 July 1996 on weapons, ammunition, powders and explosives governs the acquisition, possession, import, export, control and classification of weapons. All these provisions are quoted in the supplementary report submitted by Guinea pursuant to Security Council resolution 1373 (2001).

These provisions, which do not specifically concern Usama bin Laden and the Al-Qaida network, are cited again below, just in case.

General provisions

Article 1: Weapons shall mean any sharp, piercing or blunt machines, instruments or utensils or any other product used to hit, wound or kill.

Article 2: The weapons and ammunition covered by this Act are classified under the following categories:

1. War material

Category 1: Firearms and munitions designed or intended for ground, naval, aerial or space warfare.

Category 2: Materiel destined to carry or use firearms in combat.

Category 3: Protective equipment for use in gas, chemical, incendiary or biological warfare.

Category 4: Defensive firearms and their munitions.

2. Firearms and munitions not considered to be war material

Category 5: Hunting weapons and their munitions.

Category 6: Edged weapons.

Category 7: Firearms for target shooting, fairs and exhibitions and their munitions.

Category 8: Historic weapons and munitions and collector's weapons.

Chapter 1
Manufacture of and trade in weapons and ammunition

Article 3: Any natural or legal person wishing to engage in the manufacture of or trade in material in categories 1 to 4 and category 5, must make a prior declaration to the Ministry of Defence and to the Ministry of the Interior, respectively. In both instances, a receipt shall be issued for the declaration.

Such trade in war material and defence weapons and ammunition in categories 1 to 4 may not be shut down and transferred nor may the intermediaries or publicity agents involved therein carry out their activities without the authorization of and supervision by the Government in accordance with such provisions as may be stipulated by decree.

Article 4: The Ministry of Defence shall be responsible for centralizing and coordinating through a war material monitoring authority whose powers shall be mandated by decree, State regulatory and control activities with respect to the manufacturing of and trade in material under this Act.

Article 5: The State shall be the exclusive importer of material in categories 1, 2, 3 and 4. An import authorization issued in accordance with the provisions of a joint order of the Ministry of the Interior and the Ministry of Trade shall be required for the import of material in categories 5 and 6.

Article 6: The export, under any customs regime, without authorization, of war material and analogous material, is prohibited.

Article 7: All barrels of military arms intended for foreign trade shall be subjected to tests attested to by the application of a stamp. An export mark is also stamped on the barrels.

Article 8: Anyone who engages without authorization in the manufacture of or trade in war material or defence weapons and ammunition or who acts as an intermediary or publicity agent for enterprises not authorized to do so shall be liable to one year's imprisonment and a fine of 500,000 to 1 million Guinean francs.

The offence may be reported by customs and excise officers, officers of the police and gendarmerie and compliance officers.

Chapter 2
Acquisition and possession of weapons and ammunition

Article 9: The acquisition and possession without authorization of weapons and ammunition in categories 1, 2, 3, 4 and 5 is forbidden.

Article 10: The Minister of Defence and the Minister of the Interior shall be responsible in their respective areas for regulating authorizations and exercising oversight with respect to the terms and conditions governing the possession and use of arms and ammunition.

Article 11: Category 1 weapons and ammunition and their spare parts are reserved for the armed forces and other services responsible for national defence.

The acquisition and possession by civilians of such weapons and ammunition or spare parts is prohibited.

The acquisition, possession and use of such weapons, ammunition and spare parts by military or paramilitary officers shall be governed by special provisions.

Article 12: The development, manufacture, possession, stockpiling, acquisition and transfer of biological agents, other agents and toxins whatever their origin and mode of production and in such types and in quantities as are not intended for preventive or protective purposes or for other peaceful purposes are prohibited.

It is forbidden to incite or assist in any manner any State, enterprise, organization, group or individual to engage in the acts referred to in paragraph 1.

Violations of the provisions of this article shall be punishable by three to four years of imprisonment and/or a fine of 200,000 to 800,000 Guinean francs.

Upon conviction, the court shall order the confiscation, with a view to their destruction, of the agents or toxins listed in this article. It may also order the temporary or permanent, complete or partial closure of the establishment where such agents or toxins were developed, manufactured, held or stockpiled; and order the confiscation of the equipment used to develop, manufacture, hold or stockpile such agents or toxins. The court may ban, for a period not exceeding five years, the convicted person from engaging in the activity which served as a cover for the commission of the offence.

Article 13: Anyone who has received treatment for a mental disease may not acquire or possess a weapon or ammunition.

Weapons and ammunition in the possession of anyone referred to in the preceding paragraph shall be seized.

Article 14: Authorization to acquire and possess weapons and ammunition may not be granted to:

- persons convicted of a crime;
- persons under protection or in detention;
- alcoholics or dangerous drug addicts.

Article 15: Persons aged 18 or younger may acquire and/or bear the weapons or ammunition in categories 6, 7 and 8.

Article 16: Authorization to acquire and bear weapons and ammunition shall be granted for a maximum period of five years. Application for its renewal shall be made to the competent authority referred to in article 10 of this Act.

Article 17: Anyone who, without having obtained the authorization referred to in article 10, acquires, transfers or possesses in any manner one or more of the weapons or corresponding ammunition listed in category 1 or 4 shall be liable to two to five years' imprisonment and/or a fine of 200,000 to 800,000 Guinean francs.

In addition, the court shall order, as necessary, the confiscation of the weapons and ammunition. If the offender has previously been sentenced to imprisonment or to a more severe punishment for a felony or misdemeanour, the term of imprisonment shall be 5 to 10 years and he may be subject to area banishment for a maximum period of five years.

Article 18: Anyone who obstructs or attempts to obstruct the implementation of these provisions shall be liable to two to five years' imprisonment and/or a fine of 100,000 to 500,000 Guinean francs.

Article 19: Any person who possesses a store of arms or ammunition in categories 1, 4 or 6 shall be liable to two to eight years' imprisonment and/or a fine of 300,000 to 1,000,000 Guinean francs.

Chapter 5
Powders and explosives

Article 26: The production, import, export, sale and possession of explosive powders and substances intended for military use shall be subject to the authorization and control of the Minister of Defence.

The production, import, export, use, trading and possession of explosive powders and substances intended for small-scale use shall be subject to the authorization and control of the Minister of the Interior.

Article 27: The production, import, export, trading, use, transport and storage of explosive powders and substances shall be subject to an authorization by joint order of the Ministers of the Interior, Trade and Industry.

Article 28: The following shall be liable to one to five years' imprisonment and/or a fine of 200,000 to 300,000 Guinean francs:

1. Anyone who sells, exports, produces or imports any explosive powders or substances without authorization.

2. Anyone authorized to manufacture, acquire, transport or store explosives who has not declared the disappearance of some or all of such products to the police or gendarmerie within 24 hours of learning of the event.

When the authorized party is a legal person, the same penalties shall apply to its directors if they knew of the disappearance but failed to declare it within the time limit stipulated in this article.

The penalties provided for in this article may be doubled in the case of reoffenders.

At the request of the administrative authority, the same ruling may also order the confiscation of the products being manufactured, imported, exported or sold and their means of production.

Article 29: Anyone producing or possessing, without a legitimate reason, any substance intended for use in an explosive shall be liable to two to five years' imprisonment and/or a fine of 200,000 to 500,000 Guinean francs.

Any manufacturers or dealers of dynamite shall be classed as gunpowder dealers.

Please identify the "specialized services" in Guinea responsible for providing early warning to other States.

Operational criminal information in Guinea is exchanged through Interpol, which has the logistics required for that purpose in each of its Member States.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Delivering arms to Usama bin Laden, Al-Qaida and the Taliban and their associates is not an offence under the law. The answer to this question is given in paragraph 20 above.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The procedure for issuing arms licences is determined by the Ministry of the Interior, which has sole competence in this regard.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Guinea does not produce any weapons or ammunition, other than small calibre hunting weapons. Guinea does have regulations for this type of weapon and they are applied.

VI. Assistance and Conclusion

24-25. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

The Republic of Guinea would like to be assisted in the preparation of mechanisms and structures and rules to identify the channelling of illicit funds and to freeze such funds.

As regards training and equipment for border checkpoint agents (police, customs) assistance has been requested in the two previous reports submitted to the Committee established pursuant to Security Council resolution 1373 (2001).